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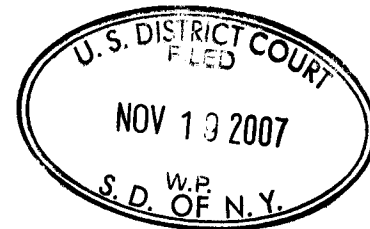
TERRY RICE *
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* ADMITTED TO PRACTICE IN N.Y. & N.J.

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SHELDON DAMSKY
OF COUNSEL

November 15, 2007
Fax (914) 390-4095

Hon. George A. Yanthis
Magistrate Judge
United States District Court
300 Quarropas Street
White Plains, New York 10601



Re: Rosendale v. Brusie et al
05 CV 10759 (CLB)(GAY)

A handwritten signature in cursive script, appearing to read "Claudia".

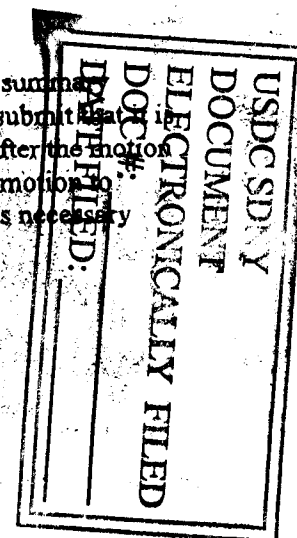
Dear Judge Yanthis:

I represent the Defendants in the above-captioned matter. I have just received a response from Mr. Rosendale, dated November 14, 2007, to my letter application dated November 14, 2007.

If it is agreeable to the Court and if, in fact, Mr. Rosendale is accurate in contending that he has made only minor changes in the first amended complaint, I have no objection to the pending motion to dismiss being considered to apply to the first amended complaint provided that I may also address new matters brought up in the first amended complaint in my reply papers and that I have until December 12, 2007 to serve and file the reply papers. As I mentioned in my November 14, 2007, because of other pending matters, I cannot deal with this or any other matter until that time.

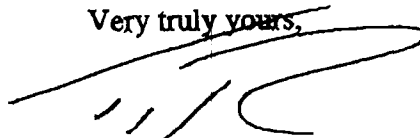
I would also request that Mr. Rosendale provide a red-lined or similar copy of the first amended complaint depicting the changes between the initial complaint and first amended complaint so that I can verify that the purported "minor" changes are in fact insubstantial.

This Court previously determined that Mr. Rosendale's motion for summary judgment be held in abeyance until the motion to dismiss is determined. I submit that it is appropriate that the summary judgment motion be held in abeyance until after the motion to dismiss is decided and that, if the entire action is not disposed of on the motion to dismiss, the Court hold a conference to determine what discovery, if any, is necessary before the parties move for summary judgment.



I do not address the balance of Mr. Rosendale's letter that does not deal with the instant application and he should not interpret such as agreement in any respect. Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, consisting of a series of loops and strokes, appearing to read 'Terry Rice'.

Terry Rice

TR-wp-1114/134-35

cc: D. Rosendale (917) 591-6357

TRANSMISSION VERIFICATION REPORT

TIME : 11/15/2007 09:55
NAME : RICE AND AMOM
FAX : 8453570765
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